

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC**

In the Matter of:

Request for Review of the	)	
Decision of the	)	
Universal Service Administrator by	)	
	)	
Mesquite Independent School District	)	CC Docket No: 02-6
FCC Registration Number: 0001647239	)	
Billed Entity Number: 140521	)	
	)	
Schools and Libraries Universal Service	)	
Support Mechanism	)	
	)	
Before the Wireline Competition Bureau	)	

**REQUEST FOR REVIEW**

**INTRODUCTION**

Section 54.719(c) of the Commission’s rules provides that any person aggrieved by an action taken by a division of the Universal Service Administrative Company may seek review from the Commission.<sup>1</sup> Mesquite Independent School District (hereinafter “MISD”) hereby appeals the current action taken by USAC in the following case.

**BACKGROUND**

On September 19, 2006, MISD received notice that the Schools and Libraries Division (SLD) would not fund the following Funding Request Numbers (FRN): FRN 1474234 and FRN 1474222. The SLD gave the same explanation for denying both of the FRNs, “30% or more of this FRN includes a request for text messaging and Blackberry email and web which are ineligible products/services based on program rules.” The Funding Decision Commitment Letters (FCDL) for both FRNs are attached as Exhibit A. Both of the funding requests involved

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<sup>1</sup> 47 C.F.R. § 54.719(c).

telecommunications funding requests for Blackberry cell phone service. Neither FRN involved the purchase or lease of the actual physical cell phones to be used by the school district. For the following reasons, MISD respectfully requests the Commission to reverse the SLD's decision and determine text messaging and Blackberry email are eligible services.

## **DISCUSSION**

MISD has reviewed the current Eligible Services List and believes the services requested are eligible under current rules. Text messaging and Blackberry service falls into the Internet Access Services category on the List. The general requirements for all Internet Access Service are as follows:

### **Eligibility Requirements for All Internet Access Services:**

Descriptions in this section are limited to the provision of "basic conduit access" to the Internet, and apply to services, not purchases of equipment used in Internet Access. Service Providers for Internet Access need not be telecommunications carriers.

Internet Access is an information service. The Communications Act of 1934 (as amended) defines an information service as "the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service." [47 U.S.C. 153(20)].

Under FCC rules, funding is available for Internet Access that "[transmits] information as part of a gateway to an information service, where that transmission does not involve the generation or alteration of the content of information but may include data transmission, address translation, protocol conversion, billing management, introductory information content, and navigational systems that enable users to access information services that do not affect the presentation of such information services to users."

Currently, the SLD's Eligible Services List for Funding Year 2006 has the following description for E-mail Service under the Internet Access Services category, "E-mail Service provides for the transmission of simple text messages and other embedded data." Text messaging and Blackberry services provide for the transmission of simple text messages. An e-mail which is received via a Blackberry cell phone is simply combining two eligible services, a cell phone service and e-mail. The possibility for the combination of Internet Access and

Telecommunications is provided for in the Eligible Services List. The following is the guidance provided by the Eligible Services List when Internet Access and Telecommunications are to be combined:

NOTE CONCERNING COMBINED PRIORITY 1 SERVICES: Some service offerings provide a combination of Priority 1 services—including both Internet Access and Telecommunications. For example, a service provider may provide a combined offering of local phone service, long distance service, cellular service, and Internet access for one price. For administrative convenience, such a combined offering, if provided by an eligible telecommunications provider, may be requested in the Telecommunications category of service. Alternatively, funding may be requested as two separate requests for Telecommunications Services and Internet Access, with the price of the offering divided between the two requests.

In the current situation, the combined offering was to be provided by two eligible telecommunications providers, Nextel and T-Mobile USA, Inc. As per the guidance given above, the combined services were applied for as Telecommunications Services.

#### SUMMARY

MISD requests the Commission to determine text messaging and Blackberry e-mail are eligible services under the current program rules. MISD would further request the Commission to remand this case back to USAC with instructions to fund both of the funding requests at issue.

Sincerely Submitted,



Dennis Hevron  
Director of Technical Services  
Mesquite Independent School District  
800 East Kearney Street,  
Mesquite, TX 75149  
972-882-7383

# **EXHIBIT A**

**FUNDING COMMITMENT DECISION LETTER**

**APPLICATION #502097**

**FUNDING YEAR 2006**



**Universal Service Administrative Company**  
Schools & Libraries Division

**FUNDING COMMITMENT DECISION LETTER**  
(Funding Year 2006: 07/01/2006 - 06/30/2007)

September 19, 2006

Dennis Hevron  
MESQUITE INDEP SCHOOL DISTRICT  
405 E DAVIS ST  
MESQUITE, TX 75149-4701

Re: Form 471 Application Number: 502097  
Billed Entity Number (BEN): 140521  
Billed Entity FCC RN: 0001647239  
Applicant's Form Identifier: MI06-47101

Thank you for your Funding Year 2006 application for Universal Service Support and for any assistance you provided throughout our review. The current status of the funding request(s) in the Form 471 application cited above and featured in the Funding Commitment Report(s) (Report) at the end of this letter is as follows.

- The amount, \$907,507.03 is "Approved."
- The amount, \$11,714.15 is "Denied."

Please refer to the Report on the page following this letter for specific funding request decisions and explanations. The Universal Service Administrative Company (USAC) is also sending this information to your service provider(s) so preparations can begin for implementing your approved discount(s) after you file Form 486 (Receipt of Service Confirmation Form). A guide that provides a definition for each line of the Report precedes the Report.

A list of Important Reminders and Deadlines is included with this letter to assist you throughout the application process.

**NEXT STEPS**

- Work with your service provider to determine if you will receive discounted bills or if you will request reimbursement from USAC after paying your bills in full
- Review technology planning approval requirements
- Review CIPA requirements
- File Form 486
- Invoice USAC using the Form 474 (service provider) or Form 472 (Billed Entity) - as products and services are being delivered and billed

**TO APPEAL THIS DECISION:**

If you wish to appeal a decision in this letter, your appeal must be received by USAC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and (if available) email address for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Include the following to identify the letter and the decision you are appealing:
  - Appellant name,
  - Applicant name and service provider name, if different from appellant,
  - Applicant BEN and Service Provider Identification Number (SPIN),
  - Form 471 Application Number 502097 as assigned by USAC,
  - "Funding Commitment Decision Letter for Funding Year 2006," AND
  - The exact text or the decision that you are appealing.

3. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal, including any correspondence and documentation.
4. If you are the applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are the service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.
5. Provide an authorized signature on your letter of appeal.

To submit your appeal to USAC by email, email your appeal to [appeals@sl.universalservice.org](mailto:appeals@sl.universalservice.org). USAC will automatically reply to incoming emails to confirm receipt.

To submit your appeal to USAC by fax, fax your appeal to (973) 599-6542.

To submit your appeal to USAC on paper, send your appeal to:

Letter of Appeal  
Schools and Libraries Division - Correspondence Unit  
100 South Jefferson Road  
P.O. Box 902  
Whippany, New Jersey 07981

While we encourage you to resolve your appeal with USAC first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted in the Reference Area of our website. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

#### NOTICE ON RULES AND FUNDS AVAILABILITY

An applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Program. Applicants who have received funding commitments continue to be subject to audits and other reviews that USAC and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with all such requirements. USAC may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by USAC, the applicant, or the service provider. USAC, and other appropriate authorities (including but not limited to the FCC), may pursue enforcement actions and other means of recourse to collect improperly disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

Schools and Libraries Division  
Universal Service Administrative Company

FUNDING COMMITMENT REPORT  
Billed Entity Name: MESQUITE INDEP SCHOOL DISTRICT  
BEN: 140521  
Funding Year: 2006

Form 471 Application Number: 502097  
Funding Request Number: 1474222  
Funding Status: Not Funded  
Category of Service: Telecommunications Service  
Form 470 Application Number: 271340000552177  
SPIN: 143026181  
Service Provider Name: T-Mobile USA, Inc.  
Contract Number: T  
Billing Account Number: N/A  
Service Start Date: 07/01/2006  
Contract Expiration Date: 06/30/2007  
Number of Months Recurring Service Provided in Funding Year: 12  
Annual Pre-discount Amount for Eligible Recurring Charges: \$3,215.52  
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00  
Pre-discount Amount: \$3,215.52  
Discount Percentage Approved by the USAC: N/A  
Funding Commitment Decision: \$0.00 - Incl. svcs./ or product(s)  
Funding Commitment Decision Explanation: 30% or more of this FRN includes a request for cellular internet access which is an ineligible product(s)/service(s) based on program rules.

FCDL Date: 09/19/2006

Wave Number: 022

Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2007

Funding Request Number: 1474228  
Funding Status: Funded  
Category of Service: Telecommunications Service  
Form 470 Application Number: 271340000552177  
SPIN: 143000677  
Service Provider Name: Verizon Wireless  
Contract Number: T  
Billing Account Number: N/A  
Service Start Date: 07/01/2006  
Contract Expiration Date: 06/30/2007  
Number of Months Recurring Service Provided in Funding Year: 12  
Annual Pre-discount Amount for Eligible Recurring Charges: \$503.16  
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00  
Pre-discount Amount: \$503.16  
Discount Percentage Approved by the USAC: 66%  
Funding Commitment Decision: \$332.09 - FRN approved; modified by SLD  
Funding Commitment Decision Explanation: The dollars requested were reduced to remove the ineligible products/services insurance and text messaging.

FCDL Date: 09/19/2006

Wave Number: 022

Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2007

FUNDING COMMITMENT REPORT  
Billed Entity Name: MESQUITE INDEP SCHOOL DISTRICT  
BEN: 140521  
Funding Year: 2006

Form 471 Application Number: 502097  
Funding Request Number: 1474234  
Funding Status: Not Funded  
Category of Service: Telecommunications Service  
Form 470 Application Number: 271340000552177  
SPIN: 143000889  
Service Provider Name: Nextel of Texas, Inc.  
Contract Number: T  
Billing Account Number: N/A  
Service Start Date: 07/01/2006  
Contract Expiration Date: 06/30/2007  
Number of Months Recurring Service Provided in Funding Year: 12  
Annual Pre-discount Amount for Eligible Recurring Charges: \$14,533.20  
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00  
Pre-discount Amount: \$14,533.20  
Discount Percentage Approved by the USAC: N/A  
Funding Commitment Decision: \$0.00 - Incl. svcs./ or product(s)  
Funding Commitment Decision Explanation: 30% or more of this FRN includes a request for text messaging and Blackberry Email & Web which are ineligible product(s)/service(s) based on program rules.

FCDL Date: 09/19/2006

Wave Number: 022

Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2007

Funding Request Number: 1474246  
Funding Status: Funded  
Category of Service: Internet Access  
Form 470 Application Number: 322340000561026  
SPIN: 143004662  
Service Provider Name: Southwestern Bell Telephone, L.P.  
Contract Number: MTM  
Billing Account Number: N/A  
Service Start Date: 07/01/2006  
Contract Expiration Date: 06/30/2007  
Number of Months Recurring Service Provided in Funding Year: 12  
Annual Pre-discount Amount for Eligible Recurring Charges: \$10,056.00  
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00  
Pre-discount Amount: \$10,056.00  
Discount Percentage Approved by the USAC: 66%  
Funding Commitment Decision: \$6,636.96 - FRN approved as submitted

FCDL Date: 09/19/2006

Wave Number: 022

Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2007